MONTANA LEGISLATIVE HISTORY

Chapter 240 19 57

Bill H 167 S _____ Original bill & history ____C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 18	✓C	Hearing Date(s)	Mar 02	✓C
	_____	____C		_____	____C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Feb 18	✓C		Mar 02	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

House Bill No. 305 was considered at this time. Motion was made by Daniels and seconded by Anderson that House Bill No. 305 be passed for the day. Motion carried.

House Bill No. 347 was considered at this time. Motion was made by Anderson and seconded by McGarvey that House Bill No. 347 Do Pass. Motion carried.

Mr. Anderson then gave his sub-committee report on House Bill No. 226. Motion was made by Anderson and seconded by Gerard that House Bill No. 226 Do Pass As Amended. Motion carried.

House Bill No. 157 was considered at this time. Motion was made by Anderson and seconded by McGarvey that House Bill No. 157 Do Not Pass. Motion carried.

House Bill No. 159 was considered at this time. Motion was made by McGarvey and seconded by Cerovski that House Bill No. 159 Do Pass. Motion carried.

House Bill No. 385 was considered at this time. Motion was made by Cerovski and seconded by McKenna that House Bill No. 385 Do Pass. Motion carried.

House Bill No. 160 was considered at this time. Motion was made by Cerovski and seconded by McGarvey that House Bill No. 160 Do Not Pass. Motion carried.

House Bill No. 162 was considered at this time. Motion was made by Cerovski and seconded by McGarvey that House Bill No. 162 Do Not Pass. Motion carried.

House Bill No. 163 was considered at this time. Motion was made by Cerovski and seconded by McGarvey that House Bill No. 163 Do Not Pass. Motion carried.

House Bill No. 167 was considered at this time. Motion was made by Anderson and seconded by McGarvey that House Bill No. 167 Do Pass As Amended. Motion carried.

House Bill No. 161 was considered at this time. Motion was made by Anderson and seconded by McGarvey that House Bill No. 161 Do Pass As Amended.

House Bill No. 40 was taken up at this time. Motion was made by Anderson and seconded by McGarvey that House Bill No. 40 Do Not Pass. Motion carried.

House Bill No. 357 was considered at this time. Motion was made by Anderson and seconded by McKenna that House Bill No. 357 Do Pass. Motion carried.

House Bill No. 368 was considered at this time. Motion was made by McKenna and seconded by McGarvey that House Bill No. 368 Do Pass. Motion carried.

Senate Committee on Judiciary

The meeting was called to order by Chairman Harken, 2 March 1957, 8:00 AM. All present with exception of Ringling.

HB 380 amended and concurred in generally, and unanimously.

HB 283 amended and concurred in generally and unanimously.

HB 433 amended and concurred in generally and unanimously.

HB 344 discussed by Dan Dykstra who is with Union Bank of Helena. He stated reasons why he thought the bill good.

HB 414 discussed by Mr. Howard from House of Representatives.

HB 331. Representative Helding appeared on this bill. Bill taken from Colorado law.

HB 130. Represenative Barnard appeared. Bill has to do with insurance purchase by schools.

HB 167. Joe Roe appeared on this uniform adoption act. Appeared at the request of Smith. Questions by the committee.

HB 458. McDonnell moved it be concurred in. Nixon seconded. Motion carried.

HB 331. Smith moved it be killed; seconded by Hibbs. Motion carried with dissenting vote by McDonnell.

HB 380. Smith moved it be concurred in. Nixon moved to amend $20.00 to read $15.00. Hibbs moved Nixons amendment be adopted. seconded by Carney. Motion carried that HB 380 as amended be concurred in with dissenting vote by Smith.

HB 130. Worden moved it be killed; seconded by Smith. Motion carried.

HB 344. Hibbs moved it pass; seconded by Carney. Motion carried with dissenting vote by Worden.

HB 414. Worden moved it pass; seconded by McDonnell. Motion carried.

HB 167. Smith moved it be amended and concurred in; seconded by Nutter. Motion carried.

HB 114. House amending SB 92 to include provisions of this bill. Worden moved it be killed; seconded by McDonnell. Motion carried.

HB 123. Worden moved it be killed; seconded by Smith. Motion carried.

writing, by a majority of the freeholders of the territory proposed to be embraced.

Two or more adjacent tracts adjoining city may be included in one resolution.

"(3) Whenever two or more adjacent tracts taken as a whole shall adjoin the city, they may be included in one resolution under subdivision 2 hereof, although one or more of said tracts taken alone may not be adjacent to the corporate limits as then existing."

Sections 11-506, 11-507, 11-508, 11-509, and 11-510, R.C.M.,1947 not repealed or amended.

Section 2. This act shall not, and nothing contained herein shall repeal or amend or be construed to repeal or amend sections 11-506, 11-507, 11-508, 11-509, and 11-510, Revised Codes of Montana, 1947, or as amended or re-enacted, which provide an alternative method of annexation of territory to certain cities and towns.

Approved March 13, 1957.

CHAPTER 240

An Act to Make Uniform the Law Relating to the Adoption of Children; Repealing Sections 61-127 to 61-137, Both Inclusive, of the Revised Codes of Montana, 1947, and Repealing Section 61-140, of the Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. **Definitions.** As used in this act, unless the context otherwise requires, "child" means any minor person, and "agency" means any person, authority or agency legally empowered to place children for adoption. Singular words may extend and be applied to several persons or things, as well as to one person or thing. Plural words may extend and be applied to one person or thing, as well as to several persons or things.

Who may be adopted.

Section 2. **Who May be Adopted.** Any child present within this state at the time the petition for adoption is filed, irrespective of place of birth or place of residence, may be adopted.

Who may adopt.

Section 3. **Who May Adopt.** The following persons are eligible to adopt a child:

(1) A husband and wife jointly, or either the husband or wife if the other spouse is a parent of the child.

(2) An unmarried person who is at least 21 years old.

(3) A married person at least 21 years old who is legally separated from the other spouse.

(4) In the case of an illegitimate child, its unmarried father or mother.

Venue.

Section 4. **Venue.** Proceedings for adoption must be brought in the district court of the county where the petitioners reside.

Persons required to consent to the adoption.

Section 5. **Persons Required to Consent to the Adoption.** An adoption of a child may be decreed when there have been filed written consents to adoption executed by:

(1) Both parents, if living, or the surviving parent, of a legitimate child; provided, that consent shall not be required from a father or mother,

(a) deprived of civil rights by a court of competent jurisdiction; or,

(b) adjudged guilty by a court of competent jurisdiction of the crime of adultery; or,

(c) adjudged guilty by a court of competent jurisdiction of physical cruelty or habitual mental cruelty, toward said child; or,

(d) divorced by decree of a court of competent jurisdiction for adultery; or

(e) adjudged to be an habitual drunkard; or

(f) who has been judicially deprived of the custody of the child on account of cruelty or neglect toward the child; or,

(g) who has, in the State of Montana, or in any other state of the United States, wilfully abandoned such child; or,

(h) who has caused the child to be maintained by any public orphans' home, asylum, charitable home or charitable agency or any licensed adoption agency, or the state department of public welfare of the State of Montana for a period of one (1) year without contributing to the support of said child during said period; or

(2) The mother alone, if the child is illegitimate; or,

(3) The legal guardian of the person of the child if both parents are dead or if the rights of the parents have been terminated by judicial proceedings and such guardian has authority by order of the court appointing him to consent to the adoption; or,

(4) The executive head of an agency if both parents are dead or if the child has been relinquished for adoption to such agency or if the rights of the parents have been judicially terminated and custody of the child has been legally vested in such agency with authority to consent to adoption of the child; or,

(5) Any person having legal custody of a child by court order if the parental rights of the parents have been judicially terminated, but in such case the court having jurisdiction of the custody of the child must consent to adoption, and a certified copy of its order shall be attached to the petition.

Witness or acknowledgement of consents required in (1) and (2).

The consents required by paragraphs (1) and (2) shall be acknowledged before an officer authorized to take acknowledgments, or witnessed by a representative of the state department of public welfare or of an agency, or witnessed by a representative of the court.

Withdrawal of consent.

Section 6. **Withdrawal of Consent.** Withdrawal of any consent filed in connection with a petition for adoption hereunder, shall not be permitted, except that the court, after notice and opportunity to be heard is given to the petitioner, to the person seeking to withdraw consent, and to any agency participating in the adoption proceedings, may, if it finds that the best interests of the child will be furthered thereby, issue a written order permitting the withdrawal of such consent. The entry of the interlocutory or final decree of adoption renders any consent irrevocable.

Entry of decree renders consent irrevocable.

Consent of the child.

Section 7. **Consent of the Child.** Consent of the child if twelve years of age or over, shall be required. Such consent shall be given in court, or be in writing, in such form as the court shall direct.

Petition for adoption, contents.

Section 8. **Petition for Adoption.** (1) A petition for adoption shall be filed in duplicate, verified by the petitioners, and shall specify:

(a) The full names, ages and place of residence of the petitioners, and, if married, the place and date of the marriage.

(b) When the petitioners acquired or intend to acquire custody of the child and from what person or agency.

(c) The date and place of birth of child, if known.

(d) The name used for the child in the proceeding, and if a change in name is desired, the new name.

(e) That it is the desire of the petitioners that the relationship of parent and child be established between them and the child.

(f) A full description and statement of value of all property owned or possessed by the child.

(g) Facts, if any, which excuse consent on the part of a parent, to the adoption.

Copy of petition for court and copy to state department of public welfare and other agencies.

(2) One copy of the petition shall be retained by the court. The other shall be sent to the state department of public welfare and to any agency participating in the adoption proceeding.

Written consent attached to petition.

(3) Any written consent required by this act may be attached to the petition, or may be filed, after the filing of the petition, with the consent of the court.

Investigation may be required by court.

Section 9. **Investigation.** (1) Upon the filing of a petition for adoption the court may in its discretion order an investigation to be made by the state department of public welfare or any other private agency licensed and approved for such investigatory purposed by the state department of public welfare, and may in its discretion further order that a report of such investigation shall be filed with the court by the designated investigator within the time fixed by the court and in no event more thirty (30) days from the issuance of the order for investigation, unless time therefor is extended by the court. Such investigation if ordered by the court shall include the conditions and antecedents of the child for the purpose of determining whether he is a proper subject for adoption; appropriate inquiry to determine whether the proposed home is a suitable one for the child; and any other circumstances and conditions which may have a bearing on the adoption and of which the court should have knowledge.

Report.

Separate investigations.

(2) The court may order agencies named in subsection (1) of this section located in one or more counties to make separate investigations on separate parts of the inquiry as may be appropriate.

Report of investigation part of file.

(3) The report of such investigation shall become a part of the files in the case and shall contain a definite recommendation for or against the proposed adoption and state reasons therefor.

Summary decree—waiver of requirements.

Section 10. **Summary Decree.** If the child is related by blood to one of the petitioners, or is a stepchild of the petitioner, or the court finds that the best interests of the child will be furthered thereby, the court, after examination of the report required in section 9, in its discretion may waive the entry of an interlocutory decree and the waiting period of six (6) months provided in section 11 and grant a final decree of adoption if satisfied that the adoption is for the best interests of the child.

Interlocutory and final decree.

Section 11. **Interlocutory and Final Decree.** Upon examination of the report described in section 9 and after hearing, the court may issue an interlocutory decree giving the care and custody of the child to the petitioners, pending the further order of the court. Thereafter the investigator shall observe the child in his adoptive home and report in writing to the court within six (6) months on any circumstances or conditions which may have a bearing on the adoption. After six (6) months from the date of the interlocutory decree the petitioners may apply to the court for a final decree of adoption. The court shall thereupon set a time and place for final hearing. Notice of the time and date of the hearing shall be served on the state department of public welfare and the investigator. The investigator shall file with the court a written report of its findings and recommendations and certify that the described investigation if any, has been made since the granting of the interlocutory decree. After hearing on said application, at which the petitioners and the child shall appear, unless the presence of the child is waived by the court, the court may enter a final decree of adoption if satisfied that the adoption is for the best interests of the child.

Petition for final decree, time, notice, hearing.

Effect of final decree, relation of parent and child.

Section 12. **Effect of Final Decree.** (1) After the final decree of adoption is entered the relation of parent and child and all the rights, duties and other legal consequences of the natural relation of child and parent shall

thereafter exist between such adopted child and the adoptive parents adopting such child and the kindred of the adoptive parents. From the date of the final decree of adoption, the child shall be entitled to inherit real and personal property from and through the adoptive parents in accordance with the statutes of descent and distribution, and the adoptive parents shall be entitled to inherit real and personal property from and through the child in accordance with said statutes.

Natural parents relieved of responsibility.

(2) After a final decree of adoption is entered, the natural parents of the adopted child, unless they are the adoptive parents or the spouse of an adoptive parent shall be relieved of all parental responsibilities for said child and have no rights over such adopted child or to his property by descent and distribution.

Hearing confidential.

Section 13. **Confidential Nature of Record and Proceedings.** (1). Unless the court shall otherwise order, all hearings held in proceedings under this act shall be confidential and shall be held in closed court without admittance of any person other than interested parties and their counsel.

Papers and records confidential.

(2) All papers and records pertaining to the adoption shall be kept as a permanent record of the court and withheld from inspection. No person shall have access to such records except on order of the judge of the court in which the decree of adoption was entered for good cause shown.

Exception—order of court.

All other files and records confidential.

(3) All files and records pertaining to said adoption proceedings in the county and state departments of public welfare or any authorized agencies shall be confidential and withheld from inspection except upon order of court for good cause shown.

Appeal.

Section 14. **Appeal.** An appeal may be taken from any final order, judgment or decree rendered hereunder to the district court by any person aggrieved thereby, in the manner provided for appeals from said court in other civil matters.

Foreign adoption decrees recognized.

Section 15. **Foreign Adoption Decrees.** When the relationship of parent and child has been created by a decree of adoption of a court of any other state or nation, the rights and obligations of the parties as to matters within the jurisdiction of this state shall be determined by section 12 of this act.

Uniformity of interpretation.

Section 16. **Uniformity of Interpretation.** This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Act cited.

Section 17. This act may be cited as the "uniform adoption act."

Repealing clause.

Section 18. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1957.

CHAPTER 241

An Act to Amend Section 45 of Chapter 263 of the Session Laws of the Thirty-fourth Legislative Assembly of the State of Montana, 1955, Relating to Special Speed Limits on Trucks, Truck-Tractors, Motor-Driven Cycles; by Fixing Special Speed Limit for Vehicles Towing House Trailers; by Increasing Speed Limit on Trucks, Truck-Tractors from Forty-five (45) to Fifty (50) Miles Per Hour; by Correcting the Section Reference Made In Paragraph (b) from Section 113 to Section 112, Chapter 263, Laws of 1955, by Providing That All Acts and Parts of Acts in Conflict Herewith Are Hereby Repealed.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. That section 45 of chapter 263 of the session laws of the thirty-fourth legislative assembly of the State of Montana, 1955, be, and the same is hereby amended to read as follows:

"Section 45. **Special Speed Limitations on Trucks, Truck-tractors, Motor-driven Cycles** *and Vehicles Towing House Trailers.* (a) No person shall operate any truck or truck-tractor the gross weight of which exceeds *six* thousand (*6*,000) pounds at a speed greater than *fifty (50)* miles per hour.

Truck or truck-tractor speed limits.

Motor-driven cycle.

"(b) No person shall operate any motor-driven cycle at any time mentioned in section 112, chapter 263, laws of 1955, at a speed greater than thirty-five (35) miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of three hundred (300) feet ahead."

Vehicles towing house trailer.

(c) No person shall operate a vehicle which is towing a house trailer at a speed greater than a maximum of fifty (50) miles per hour.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1957.

CHAPTER 242

An Act to Provide for the Incorporation and Organization and Management of County Water Districts; to Provide for the Acquisition of Water Rights or Construction Thereby of Waterworks; and for the Acquisition of All Property Necessary Therefor; and Also to Provide for the Distribution and Sale of Water by Said Districts; Providing for Severability and An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

County water districts may be organized.

Section 1. **Organization of County Water Districts.** A county water district may be organized and incorporated and managed as herein expressly provided and may exercise the powers herein expressly granted or necessarily implied.

People of any county and/or city or county of not less than 300.

Section 2. **Organization of County Water Districts.** The people of any county, or portion of a county, or city and county, whether such portion includes unincorporated territory or not, in the State of Montana, having a population of not less than three hundred (300) inhabitants, may organize a county water district under the provisions of this act by proceeding as herein provided.

Petition to board by 10% of registered voters.

Section 3. **Petition—Boundaries of District—Publication.** A petition, which may consist of any number of separate instruments, shall be presented at a regular meeting of the board of commissioners of the county in which the proposed water district is located, signed by the registered voters within the boundaries of the proposed water district, equal in number to at least ten per centum (10%) of the registered voters of the territory included in such proposed water district. Such petition shall set forth and describe the proposed boundaries of such water district, and shall pray that the same be incorporated un-

Contents.